

Exhibit J
Deposition of Anthony Longinotti

TONY LONGINOTTI

September 28, 2010

<p>17</p> <p>1 Q Where did you go to high school?</p> <p>2 A Hot Springs High School.</p> <p>3 Q Did you graduate?</p> <p>4 A Yes.</p> <p>5 Q And what year did you graduate?</p> <p>6 A 1969.</p> <p>7 Q Did you pursue any schooling after high</p> <p>8 school?</p> <p>9 A Yes. I attended Arkansas Tech College in</p> <p>10 Russellville, Arkansas and graduated in 1973.</p> <p>11 Q What degree did you graduate with?</p> <p>12 A Sociology and psychology.</p> <p>13 Q Was that a bachelor's degree?</p> <p>14 A Yes.</p> <p>15 Q Any other schooling?</p> <p>16 A I attended graduate school at the</p> <p>17 University of Arkansas in Fayetteville for a year</p> <p>18 and a half.</p> <p>19 Q What year and a half? When did you go</p> <p>20 there?</p> <p>21 A I started in '74 and left just at the end</p> <p>22 of '75.</p> <p>23 Q What were you pursuing, a --</p> <p>24 A Master's degree in sociology.</p> <p>25 Q Did you obtain that degree?</p>	<p>19</p> <p>1 A That means I'm licensed to handle</p> <p>2 property, casualty, surety and workers' compensation</p> <p>3 claims by the state insurance department.</p> <p>4 Q And you said you have that in multiple</p> <p>5 states?</p> <p>6 A Yes.</p> <p>7 Q Which states?</p> <p>8 A Florida -- these are not current. I've</p> <p>9 held them at one time in Florida, Georgia,</p> <p>10 Louisiana, Tennessee, New Mexico, South Carolina,</p> <p>11 North Carolina, Pennsylvania. Did I say Oklahoma?</p> <p>12 Q No.</p> <p>13 A Okay.</p> <p>14 Q And Arkansas?</p> <p>15 A And Arkansas.</p> <p>16 Q Besides Arkansas -- is Arkansas current?</p> <p>17 A Yes.</p> <p>18 Q Any of the other ones still current?</p> <p>19 A No. Arkansas is the only one that I have</p> <p>20 currently.</p> <p>21 Q You said you attended various seminars,</p> <p>22 what type of seminars?</p> <p>23 A Arson investigation, accident</p> <p>24 reconstruction, casualty investigation, workers'</p> <p>25 compensation administration.</p>
<p>18</p> <p>1 A No.</p> <p>2 Q Why not?</p> <p>3 A I went to work.</p> <p>4 Q You decided you would rather be working</p> <p>5 than going to school?</p> <p>6 A Yes.</p> <p>7 Q Did you leave school on your own accord?</p> <p>8 A Yes. I completed all the coursework, I</p> <p>9 just didn't complete my master's thesis.</p> <p>10 Q Where did you go to work after that in</p> <p>11 1975?</p> <p>12 A Department of Social Services in Fort</p> <p>13 Smith, Arkansas.</p> <p>14 Q What was your job there?</p> <p>15 A I was a case examiner.</p> <p>16 Q Any other education?</p> <p>17 A Off and on for the last 34 years, various</p> <p>18 seminars. I have claim certifications in several</p> <p>19 states.</p> <p>20 Q What's claim certifications?</p> <p>21 A I have a multiline adjusters license for</p> <p>22 the state of Arkansas.</p> <p>23 Q I'm sorry, what kind of adjusters license?</p> <p>24 A Multiline adjusters license.</p> <p>25 Q What does that mean?</p>	<p>20</p> <p>1 Q Anything else?</p> <p>2 A I'm sure there were specialty seminars</p> <p>3 I've attended over the years, but I can't recall</p> <p>4 exactly what they are at the present.</p> <p>5 Q Did you receive any certifications from</p> <p>6 these seminars?</p> <p>7 A I think you received a certificate or</p> <p>8 continuing education credits.</p> <p>9 Q But no sort of certificate of higher</p> <p>10 education?</p> <p>11 A I do have a master's certificate from the</p> <p>12 Department of Transportation in safety compliance</p> <p>13 regulations that's current and I'm a current member</p> <p>14 of the Transportation Industry Defense Association</p> <p>15 as an industry member, the Northwest Arkansas Risk</p> <p>16 Managers Association.</p> <p>17 Q Okay. Any other education that we haven't</p> <p>18 talked about?</p> <p>19 A I think that's enough.</p> <p>20 Q Did you serve in the military?</p> <p>21 A No.</p> <p>22 Q Who is your current employer?</p> <p>23 A P.A.M. Transport, Inc.</p> <p>24 Q What is your title there?</p> <p>25 A Director of risk management.</p>



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<p>25</p> <p>1 A Yes.</p> <p>2 Q What's your current salary?</p> <p>3 A 78,000, I believe.</p> <p>4 Q Do you receive benefits?</p> <p>5 A Health, some life insurance coverage,</p> <p>6 401(k) and free coffee. Can I get some more?</p> <p>7 MR. HOWLETT: Yeah.</p> <p>8 Q (BY MS. GIBBS) You said that you</p> <p>9 supervised the medical compliance department?</p> <p>10 A Yes.</p> <p>11 Q Have you done that since 2004?</p> <p>12 A Yes.</p> <p>13 Q Are you familiar with the policies and</p> <p>14 procedures of the medical compliance department?</p> <p>15 A Yes.</p> <p>16 Q What is your day to day involvement in the</p> <p>17 medical compliance department?</p> <p>18 A Like the other departments, you know, I'm</p> <p>19 available for consultations. If there's issues that</p> <p>20 are unclear as far as policy decisions or decisions</p> <p>21 to be made, then I will be contacted by the medical</p> <p>22 compliance manager.</p> <p>23 Q Who works under you in the medical</p> <p>24 compliance department?</p> <p>25 A Janice Brown is the department manager.</p>	<p>27</p> <p>1 A That's about the breadth of our policies.</p> <p>2 Q Anything else that they would come to you</p> <p>3 about?</p> <p>4 A Are you talking about their personal</p> <p>5 issues?</p> <p>6 Q Not their personal issues, just for work.</p> <p>7 A My opinion, they come to me too much, but</p> <p>8 not for that. It just, you know, on a daily basis</p> <p>9 it's a close office so we're in contact quite a bit.</p> <p>10 Q For what other types of work-related</p> <p>11 issues do they come to you about?</p> <p>12 A They may want to complain about what</p> <p>13 somebody's wearing.</p> <p>14 Q Okay. Anything else?</p> <p>15 A Women issues.</p> <p>16 Q Anything else?</p> <p>17 A No.</p> <p>18 Q What time do you usually get in in the</p> <p>19 morning?</p> <p>20 A About 7 a.m.</p> <p>21 Q What time do you usually leave?</p> <p>22 A About 5 p.m.</p> <p>23 Q You usually leave by five every day?</p> <p>24 A Yes.</p> <p>25 Q You work out of the location in Tontitown?</p>
<p>26</p> <p>1 Debbie Perry is the drug and alcohol random</p> <p>2 supervisor. She also works under that department's</p> <p>3 banner. Amanda Karras, K-a-r-r-a-s, is an assistant</p> <p>4 to Debbie Perry. Leah Wallace does medical review,</p> <p>5 Melissa Priest also does medical review. Beverly</p> <p>6 Godfirnon, G-o-d-f-i-r-n-o-n, does medical review</p> <p>7 and appointment scheduling and billing oversight.</p> <p>8 Q Anyone else?</p> <p>9 A No.</p> <p>10 Q Does Janice Brown or any of the other</p> <p>11 medical review personnel ever come to you regarding</p> <p>12 whether a driver should be put on medical hold or</p> <p>13 should be released from medical hold?</p> <p>14 A On occasion.</p> <p>15 Q When would they come to you about that?</p> <p>16 A If they just had a question in general as</p> <p>17 far as did it meet our internal policy or federal</p> <p>18 compliance issues.</p> <p>19 Q So they would come to you if they did not</p> <p>20 know what P.A.M.'s internal policy was?</p> <p>21 A They could.</p> <p>22 Q Or a DOT policy?</p> <p>23 A Yes.</p> <p>24 Q What other types of policies would they</p> <p>25 come to you regarding?</p>	<p>28</p> <p>1 A Yes.</p> <p>2 Q Is that how you pronounce it?</p> <p>3 A Tontitown.</p> <p>4 Q Tontitown. Too many T's in there.</p> <p>5 A I know. I always thought it was Tonitown</p> <p>6 until I moved up here.</p> <p>7 Q Have you ever been disciplined or given a</p> <p>8 negative performance review?</p> <p>9 A No.</p> <p>10 Q What type of training do you have for your</p> <p>11 job as the director of risk management?</p> <p>12 A 1978 I started out with General Adjustment</p> <p>13 Bureau as a claims investigator. I went through</p> <p>14 their six week training course in Denver and I</p> <p>15 believe there was a couple of other two-week</p> <p>16 advanced courses at their training center in Denver</p> <p>17 I also attended. In 1981 I opened up an independent</p> <p>18 claims office and ran that for eight years as an</p> <p>19 independent adjuster. I then went to work for</p> <p>20 Maryland Casualty as a claims manager until '90 -- I</p> <p>21 believe '90. I then worked at Arkansas Best</p> <p>22 Corporation as a workers' compensation supervisor.</p> <p>23 Then in '96 to USA Truck as director of risk</p> <p>24 management and that's my current position.</p> <p>25 Q When you came to P.A.M. in 1994 as a risk</p>



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<p>1 the case?</p> <p>2 A The case has been on my desk since the</p> <p>3 charge was filed so I have -- with the discovery</p> <p>4 requests coming in, I'm usually involved in the case</p> <p>5 almost on a daily basis.</p> <p>6 Q What are the documents you reviewed in</p> <p>7 preparation for your deposition today?</p> <p>8 A That was it.</p> <p>9 Q Only the deposition transcripts?</p> <p>10 A Yes.</p> <p>11 Q Those are the only documents you reviewed?</p> <p>12 A In preparation for today, yes. Oh, excuse</p> <p>13 me, there was some medical screens that I did</p> <p>14 review.</p> <p>15 Q What medical screens did you review?</p> <p>16 A I can't say specifically. They were</p> <p>17 medical screens on some other drivers.</p> <p>18 Q Do you remember these drivers' names?</p> <p>19 A No.</p> <p>20 Q Do you remember what the facts in those</p> <p>21 medical screens were?</p> <p>22 A Some of the issues were on medication they</p> <p>23 were taking.</p> <p>24 Q Do you remember what type of medication?</p> <p>25 A Vicodin, I believe.</p>	<p>1 time?</p> <p>2 A Briefly this morning.</p> <p>3 Q How long this morning?</p> <p>4 A About ten minutes.</p> <p>5 Q During that time, did he show you any</p> <p>6 documents?</p> <p>7 A No.</p> <p>8 Q Have you spoken to Mr. Howlett regarding</p> <p>9 your deposition?</p> <p>10 A Yes.</p> <p>11 Q When did you speak to him last other than</p> <p>12 what we just talked about?</p> <p>13 A When he told me it was scheduled.</p> <p>14 Q Okay. Don't tell me anything that he told</p> <p>15 you. I don't want to know what you guys talked</p> <p>16 about, I just want to know when.</p> <p>17 A As soon as we received the notice for</p> <p>18 deposition, he informed me as to when it would be</p> <p>19 and make sure that the calendar was clear.</p> <p>20 Q Okay. Any other discussions you had with</p> <p>21 Mr. Howlett?</p> <p>22 A Just discovery requests.</p> <p>23 Q What about with Ms. Miller?</p> <p>24 A The same.</p> <p>25 Q Anybody else at Dickinson Wright that you</p>
<p>1 Q Anything else?</p> <p>2 A Not that I can recall.</p> <p>3 Q Any other documents besides some medical</p> <p>4 screens and the deposition transcripts?</p> <p>5 A Yes.</p> <p>6 Q Those are all?</p> <p>7 A Yes.</p> <p>8 Q Okay. You said you prepared with your</p> <p>9 attorney, Mr. Howlett, correct?</p> <p>10 A Correct.</p> <p>11 Q Did you meet with Mr. Howlett?</p> <p>12 A Yes.</p> <p>13 Q When did you meet with Mr. Howlett?</p> <p>14 A Yesterday.</p> <p>15 Q How long?</p> <p>16 A Approximately two hours.</p> <p>17 Q During those two hours, did Mr. Howlett</p> <p>18 show you any documents?</p> <p>19 A Yes.</p> <p>20 Q What documents did he show you?</p> <p>21 A He showed the medical screen documents I</p> <p>22 just referred to.</p> <p>23 Q Did he show you any other documents?</p> <p>24 A I don't believe so.</p> <p>25 Q Did you meet with Mr. Howlett any other</p>	<p>1 have met with or spoken to?</p> <p>2 A No.</p> <p>3 Q Just Ms. Miller and Ms. Howlett?</p> <p>4 A (Witness shakes head negatively.)</p> <p>5 MR. HOWLETT: Did you say Ms. Howlett?</p> <p>6 Q (BY MS. GIBBS) Oh, sorry. Mr. Howlett.</p> <p>7 I'm sorry. Janice Brown in her deposition testified</p> <p>8 that P.A.M. combined all of its subsidiaries such as</p> <p>9 Decker under one name; is that correct?</p> <p>10 A That's correct.</p> <p>11 Q When did that happen?</p> <p>12 A I believe in February of 2010.</p> <p>13 Q So prior to February of 2010, all the</p> <p>14 subsidiaries were operating under their previous</p> <p>15 names?</p> <p>16 A Correct.</p> <p>17 Q And so until February of 2010 Decker</p> <p>18 Transport was still operating as Decker Transport?</p> <p>19 A Yes.</p> <p>20 Q If you turn to page nine on <u>Exhibit 1</u>.</p> <p>21 A Okay.</p> <p>22 Q Okay. Interrogatory number 11, it says,</p> <p>23 "State the number of employees currently working for</p> <p>24 defendant." And then it says, "Defendant closed its</p> <p>25 operations in 2009." Why does it say that?</p>



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<p>45</p> <p>1 A I believe that's when the Decker terminal 2 was shut down and that was a general layoff. 3 Q What Decker terminal? 4 A It's the New Jersey terminal. I've just 5 drawn a blank on the city location at this point, 6 but it was a general terminal shutdown I believe 7 occurred in December and then in February the 8 decision to bring all the subsidiaries under one 9 title were made. 10 Q Did you shut down all the Decker terminals 11 in 2009? 12 A In New Jersey, yes. 13 Q Did you shut down the Decker terminal in 14 Ohio in 2009? 15 A No. 16 Q Did you shut down the Decker terminal in 17 Illinois in 2009? 18 A I don't believe we had a Decker terminal 19 in Illinois. 20 Q There was not a Decker terminal in Breese, 21 Illinois? 22 A There's a maintenance shop in Breese, 23 Illinois. 24 Q Were those shut down in 2009? 25 A I believe they were shut down later in</p>	<p>47</p> <p>1 reason that this says defendant closed its 2 operations in 2009 is because that's when the 3 terminal in New Jersey was closed, but they all 4 testified that had been closed two years earlier? 5 A They could be more correct. 6 Q Okay. So now I'm asking you again why 7 this says defendant closed its operations in 2009? 8 A My memory is not what it used to be. 9 Q So if Decker closed the New Jersey 10 terminal in 2009 -- or in 2007, I'm sorry, and 11 Decker Transport was still operating until it became 12 combined under the P.A.M. -- until P.A.M. combined 13 all their subsidiaries under one name in February of 14 2009, then this answer that says defendant closed 15 its operation in 2009, is that incorrect? 16 A That could be incorrect. I wasn't 17 involved in operational procedures regarding the 18 terminal closings. 19 Q Okay. But you were involved in 20 preparation for the answers to these 21 interrogatories? 22 A That's correct. That was probably from 23 best memory. 24 Q So you did not do anything to verify the 25 answer to this interrogatory was correct?</p>
<p>46</p> <p>1 2010. 2 Q Okay. So Decker did not close its 3 operations in 2009, you're just saying that Decker 4 closed a terminal in New Jersey in 2009? 5 A That's correct. 6 Q Okay. So this answer to the interrogatory 7 is incorrect? 8 A The location where Anita Phillips was 9 dispatched from and Pat Smith worked along with 10 Eileen Bennett, that was closed in 2009. 11 Q Okay. But Defendant Decker Transport was 12 still in operation in 2009? 13 A Through the end of 2009 in name. 14 Q Until 2010? 15 A Correct. 16 Q Okay. So the answer to this interrogatory 17 is incorrect? 18 A That's your opinion. 19 Q Pat Smith, Carl Russell, Joyce Farissier, 20 Eileen Bennett all testified that the terminal in 21 Parsippany, New Jersey actually shut down in 22 December of 2007 when they were all laid off. 23 A That could be right. That's not part of 24 my area of operation. 25 Q Okay. Well, you just testified that the</p>	<p>48</p> <p>1 A Just dependent upon my memory. 2 Q Okay. So in February of 2010 you combined 3 all the subsidiaries under P.A.M. Transport? 4 A I believe that's correct. 5 Q What were the names of all the 6 subsidiaries? 7 A AFS, which is Alan Freight Services. 8 Q Uh-huh. 9 A PDS, P.A.M. Dedicated Services; CEX, which 10 is Choctaw Express, Inc., the Decker facility in 11 Ohio; TTX in Irving, Texas and I believe that's it. 12 Q Prior to 2010, Decker was a wholly owned 13 subsidiary of P.A.M. Transport, correct? 14 A Correct. 15 Q And all of the employees of Decker were 16 employees of P.A.M. Transport, correct? 17 MR. HOWLETT: I'm going to object. It 18 calls for a legal conclusion. 19 A I don't know how they actually -- where 20 their payroll was allocated, if it was allocated 21 under Decker or P.A.M. 22 Q (BY MS. GIBBS) But Decker was a wholly 23 owned subsidiary of P.A.M. Transport, correct? 24 A Yes. 25 Q Were all the other, AFS, PDS, CEX and TTX,</p>



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<p>49</p> <p>1 also wholly owned subsidiaries of P.A.M. Transport?</p> <p>2 A Yes.</p> <p>3 Q And was Decker?</p> <p>4 A Yes.</p> <p>5 Q Okay. So the only real change in</p> <p>6 February of 2010 is that instead of being called by</p> <p>7 all these various names, now all these companies</p> <p>8 were called P.A.M. Transport?</p> <p>9 A That's correct.</p> <p>10 Q Any other substantial change that was made</p> <p>11 in February of 2010?</p> <p>12 A No.</p> <p>13 Q Okay. Were all the drivers and employees</p> <p>14 of all these subsidiaries including Decker regulated</p> <p>15 under the same policies and procedures?</p> <p>16 A Yes.</p> <p>17 Q Did any drivers get laid off as a result</p> <p>18 of the name change?</p> <p>19 A I believe the Florida operation, which is</p> <p>20 Alan Freight Services, I believe some of those</p> <p>21 drivers were laid off.</p> <p>22 Q Any other drivers that were laid off?</p> <p>23 A Not that I'm aware of.</p> <p>24 Q Were any drivers laid off when you closed</p> <p>25 the Decker facility in New Jersey?</p>	<p>51</p> <p>1 A I believe it was.</p> <p>2 Q Do you have any sort of medical training?</p> <p>3 A First aid.</p> <p>4 Q Anything else?</p> <p>5 A No.</p> <p>6 Q Have you ever received any training in DOT</p> <p>7 medical regulations?</p> <p>8 A Yes.</p> <p>9 Q What sort of training?</p> <p>10 A As referenced earlier, I have a master's</p> <p>11 certificate in Department of Transportation safety</p> <p>12 compliance management.</p> <p>13 Q What year did you receive that again?</p> <p>14 A 2009.</p> <p>15 Q Prior to 2009, did you have any training</p> <p>16 in DOT medical regulations?</p> <p>17 A Just reviewing the regulations as part of</p> <p>18 the job for approximately 20 years.</p> <p>19 Q So just reading the regulations and</p> <p>20 becoming familiar with them on your own?</p> <p>21 A Yes.</p> <p>22 Q This master's certification that you</p> <p>23 received in 2009, did you have to go to a class or a</p> <p>24 series of classes to receive it?</p> <p>25 A It was online correspondence.</p>
<p>50</p> <p>1 A I believe they all transferred, the ones</p> <p>2 that wanted to.</p> <p>3 Q Is the Willard, Ohio terminal, what was</p> <p>4 Decker Transportation is now P.A.M. Transportation,</p> <p>5 is that still open?</p> <p>6 A Yes.</p> <p>7 Q It's just operating as P.A.M.</p> <p>8 Transportation now?</p> <p>9 A Yes.</p> <p>10 Q Is the Breese, Illinois maintenance shop</p> <p>11 still open?</p> <p>12 A No, I believe it closed about four or five</p> <p>13 months ago.</p> <p>14 Q Are there any other facilities that used</p> <p>15 to be Decker Transport that are now P.A.M. Transport</p> <p>16 that are still open?</p> <p>17 A I don't believe so.</p> <p>18 Q So only Willard, Ohio is still open?</p> <p>19 A Yes. Excuse me, North Jackson, Ohio also</p> <p>20 is open.</p> <p>21 Q What was in North Jackson, Ohio?</p> <p>22 A That's a terminal facility and shop.</p> <p>23 Q Similar to New Jersey and Willard?</p> <p>24 A I have never seen those locations.</p> <p>25 Q And that used to be a Decker?</p>	<p>52</p> <p>1 Q Was it through a university, was it</p> <p>2 through the DOT?</p> <p>3 A I believe it was through the Arkansas</p> <p>4 Trucking Association's website.</p> <p>5 Q And what did you have to do?</p> <p>6 A There was several subsections of the</p> <p>7 regulations that covered everything from hours of</p> <p>8 service, drug and alcohol testing to medical</p> <p>9 compliance, driver fitness and I think there was</p> <p>10 approximately 60 separate exams associated with it</p> <p>11 that I had to complete.</p> <p>12 Q 60 exams?</p> <p>13 A It seemed like 60.</p> <p>14 Q How long did it take?</p> <p>15 A About a month.</p> <p>16 Q Did you have more than one exam a day?</p> <p>17 A Yes.</p> <p>18 Q How often would you take the classes and</p> <p>19 take the exams?</p> <p>20 A Probably every other day.</p> <p>21 Q Were the exams relatively short?</p> <p>22 A It didn't seem like it.</p> <p>23 Q So every other day how much of your time</p> <p>24 were you spending doing this?</p> <p>25 A A couple of hours.</p>



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<p>1 on, they are on a 90 day probation period and during</p> <p>2 that probation period they're under the direct</p> <p>3 supervision of Janice Brown and myself.</p> <p>4 Q When you say direct supervision, what does</p> <p>5 the direct supervision entail?</p> <p>6 A It's mainly just getting them comfortable</p> <p>7 with the department protocol, our mainframe system</p> <p>8 as to what screens they need to use and how to</p> <p>9 properly document their files and recommendations.</p> <p>10 Q Any other training that they receive?</p> <p>11 A No.</p> <p>12 Q Do they ever have to receive any sort of</p> <p>13 certifications?</p> <p>14 A Debbie Perry has to be certified as far as</p> <p>15 her collections protocol. Our workers' compensation</p> <p>16 administrator carries a current license. I carry my</p> <p>17 current license and I don't know offhand if any</p> <p>18 other persons in the department have a license of</p> <p>19 any type.</p> <p>20 Q Okay. Do all the P.A.M. companies,</p> <p>21 subsidiaries that we discussed, have the same</p> <p>22 medical policy?</p> <p>23 A Yes.</p> <p>24 Q Who teaches the medical policy to the</p> <p>25 drivers?</p>	<p>57</p> <p>1 consist of?</p> <p>2 A Just explained the overall policies that</p> <p>3 are in the handbook, what is required of a driver as</p> <p>4 far as DOT regulations regarding driver fitness.</p> <p>5 They're advised as to what the procedure is if they</p> <p>6 take medical leave or have to seek treatment from a</p> <p>7 licensed health care professional.</p> <p>8 Q How long does the training about the</p> <p>9 medical compliance last?</p> <p>10 A I think they allocate about a 45 minute</p> <p>11 period during orientation.</p> <p>12 Q They receive -- they go to receive medical</p> <p>13 treatment, what are they told in training regarding</p> <p>14 using the medical treatment?</p> <p>15 A If they're seeking medical treatment, then</p> <p>16 they need to -- the preferable procedure is they</p> <p>17 contact the medical compliance department prior to</p> <p>18 receiving the treatment or the visit so to alert</p> <p>19 them to the fact that they are going to be seeking</p> <p>20 treatment and then we ask for some type of</p> <p>21 documentation from the provider as to the reason for</p> <p>22 the visit to make sure that they're in compliance</p> <p>23 with the regulations.</p> <p>24 Q You require something in writing from the</p> <p>25 doctor?</p>
<p>58</p> <p>1 A The policies are memorialized in the</p> <p>2 driver's handbook. I believe in the employee's</p> <p>3 handbook also there's references. All drivers go</p> <p>4 through an orientation process. Part of that</p> <p>5 process is a representative of the medical -- or the</p> <p>6 risk management department will address the new</p> <p>7 hires as far as some of the highlights of how they</p> <p>8 need to interact with the medical compliance</p> <p>9 department.</p> <p>10 Q During the orientation, do all the drivers</p> <p>11 come to Arkansas?</p> <p>12 A At one time they did, but I cannot give</p> <p>13 you the dates.</p> <p>14 Q Okay.</p> <p>15 A Now there is some actual orientation being</p> <p>16 done in the field.</p> <p>17 Q In 2007 did the drivers come to Arkansas?</p> <p>18 A I can't recall specifically.</p> <p>19 Q This -- was there somebody from risk</p> <p>20 manager or medical compliance?</p> <p>21 A If the orientation was done outside of</p> <p>22 Arkansas at a terminal location, it would have been</p> <p>23 performed by a safety supervisor.</p> <p>24 Q Okay. If the safety supervisor does the</p> <p>25 medical training for the drivers, what does it</p>	<p>60</p> <p>1 A Normally, yes.</p> <p>2 Q Normally, but not always?</p> <p>3 A If they go in for an eye exam, we may not</p> <p>4 require an actual document from the doctor.</p> <p>5 Q Anything else that you wouldn't require a</p> <p>6 note, something in writing from the doctor?</p> <p>7 A You know, it's kind of on a case by case</p> <p>8 basis depending on what the issue is.</p> <p>9 Q So the personnel in medical compliance can</p> <p>10 use their discretion as to whether or not they will</p> <p>11 require something in writing?</p> <p>12 A Yes.</p> <p>13 Q If they do require a note, what should the</p> <p>14 note have in it?</p> <p>15 A We would prefer that it addresses any type</p> <p>16 of prescriptions that the driver has been given and</p> <p>17 an overall statement as to their ability to return</p> <p>18 to work. Also, whether or not there's a request for</p> <p>19 referral.</p> <p>20 Q And if the doctor's note says that they're</p> <p>21 able to return to work and they were not given a</p> <p>22 drug that is not allowed to be taken while they're</p> <p>23 driving, someone in medical compliance will then</p> <p>24 allow them to return to work?</p> <p>25 A Not necessarily.</p>



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<p>1 Q Okay. In a situation like that, when 2 would -- why would they not be allowed to return to 3 work? 4 A Well, there's -- you know, not all medical 5 providers are familiar with the Department of 6 Transportation compliance requirements. We don't 7 make medical decisions, but we do make compliance 8 decisions. So a doctor could treat a driver for a 9 condition that he may not realize is disqualifying 10 and would go ahead and indicate to the driver that 11 he is okay to return to work, but they would be out 12 of compliance with DOT. 13 Q So if it's a condition that is 14 disqualifying under DOT policies, even though the 15 doctor says they're okay to return to work, you may 16 not allow them to return to work? 17 A That's correct. 18 Q Any other reason? 19 A That's the majority reason. 20 Q Is there any other reason? 21 A No. You know, our issue is, you know, do 22 we think that the driver is safe to operate the 23 commercial motor vehicle. 24 Q Okay. But if a doctor says they're safe 25 -- okay. I'm trying to figure out how to word this</p>	<p>61 1 A True. But if the release indicates or the 2 documentation indicates no disqualifying medication, 3 not an obvious disqualifying medical condition, 4 other than issues of safety concerns there wouldn't 5 be a reason to keep a driver out of service. 6 Q When you say other than the reasons of 7 safety concerns, what do you mean? What would the 8 safety -- if all those conditions were present, that 9 they weren't given a disqualifying drug and they 10 didn't have a disqualifying condition, what else 11 would prevent them from returning to work? 12 A In some cases the drivers themselves will 13 be requested to be taken out of service because they 14 just don't feel well. During the flu season that's 15 quite a common event. They will be put on a medical 16 hold strictly on the basis of their call to us that 17 they are indicating they don't feel safe to operate. 18 Q Okay. What if the driver is ready to 19 return to work, is there any reason that medical 20 compliance would not clear them to return to work? 21 A If they are given a release from the 22 physician, we're confident the physician is familiar 23 with DOT requirements, there's no obvious 24 disqualifying conditions, if the driver feels safe 25 to operate, they would probably be cleared to drive.</p>
<p>62 1 correctly. If they are not given a prescription 2 that is -- that they are not allowed to drive on and 3 they are not being treated for a condition that is 4 regulated by the DOT and the doctor says that 5 they're safe to return to work, would you then allow 6 the driver to return to work? 7 A Not necessarily. If a driver complained 8 of dizziness and went to an ER physician and the ER 9 physician said your blood pressure is 195 over 142, 10 I'm not prescribing medicine now, follow up with 11 your regular provider, you're okay to drive, he 12 would not be allowed. He would be out of compliance 13 with motor carrier regulations on blood pressure. 14 Q Okay. But that's what we just -- but 15 if -- what I just said was that if they were not 16 given a prescription that they were not allowed to 17 drive on and if they did not have a condition that 18 disqualified them from driving under DOT regulations 19 and the doctor said they were okay to return to 20 work, would they then be allowed to return to work? 21 A There would be a judgment call. Probably 22 most cases they would be allowed to. 23 Q Okay. So you're saying there would be a 24 judgment call on behalf of somebody in medical 25 compliance?</p>	<p>63 1 Q Okay. So no disqualifying drugs, no 2 conditions that are disqualifying under the DOT and 3 the driver feels safe to drive, then medical 4 compliance should clear them to return to work, 5 correct? 6 A I think it would be a reasonable 7 assumption. 8 Q Okay. What is the purpose of requiring 9 the written release? 10 A It's one of the only ways that we can 11 document actually what the condition the driver was 12 treating for and that the doctor actually did the 13 examination and their medical recommendations. 14 Q You can't just take the driver's word? 15 A No. 16 Q Do you only require a note when they visit 17 a doctor? 18 A There are conditions that they can furnish 19 documentation without visiting a doctor, such as a 20 smart card in their CPAP machine, which is for sleep 21 apnea issues. 22 Q Okay. 23 A And it will show that one of the issues 24 with sleep apnea is that are they using the CPAP 25 machine as prescribed. A smart card records the</p>



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<p>81</p> <p>1 scene, if you have a driver who is not safe to 2 drive, may have a condition such as syncope where he 3 would become unconscious, it obviously has a large 4 impact on the driver safety as to whether or not 5 he's going to survive. 6 Q So about their safety while they're 7 driving? 8 A Right. 9 Q The same about the welfare of the public 10 in general? 11 A Correct. 12 Q If you're in a truck accident and you hit 13 something else? 14 A Truck accidents are fairly catastrophic in 15 nature. 16 Q What DOT guidelines was this policy 17 established to comply with? 18 A I believe it's section 392 of the Federal 19 Motor Carrier Regulations that addresses driver 20 fitness and medical qualifications. 21 Q Anything else, any other DOT guidelines? 22 A I think that's the majority. 23 Q Any other DOT guidelines? 24 A Well, there's several hundred pages in the 25 DOT guidelines and a lot of it addresses driver</p>	<p>83</p> <p>1 Federal Motor Carrier Regulations are minimum 2 standards to certify a driver and that also pertains 3 to health issues. 4 Q Okay. What internal criteria is this 5 policy that we just read intended to comply with or 6 has this policy been established to comply with? 7 A To put the safest driver on the road that 8 P.A.M. can possibly do. 9 Q Any other internal criteria? 10 A The primary guiding principles for our 11 medical compliance department is safety of the 12 driver and public interest. 13 Q Any other specific internal criteria that 14 this policy has been established to comply with? 15 A I'm not sure what you're asking. 16 Q Okay. This sentence, the second to last 17 sentence says, "This protocol has been established 18 to," and then I will skip – "Established to 19 compliance with DOT guidelines and internal criteria 20 of the medical compliance department." This 21 protocol is referring to the protocol that we read 22 previously, the protocol that requires drivers 23 report injury or illness or medical treatment and 24 then be cleared through medical compliance, correct, 25 that's the protocol that we're speaking about?</p>
<p>82</p> <p>1 fitness and qualifications, but 392, I believe, is 2 the governing section on medical qualifications. 3 Q And as it says the internal criteria of 4 the medical compliance department, what medical -- 5 what internal criteria of the medical compliance 6 department is this protocol established to comply 7 with? 8 A Well, that could be where we have, you 9 know, asked about the over-the-counter medications. 10 Part of the process when a student does come through 11 after the post offer has been made is they will fill 12 out a questionnaire at the medical examiner's office 13 that does ask them any use of over-the-counter 14 medication, current use, if they've had prior 15 workers' compensation claims, service related 16 disabilities and that's an internal policy. 17 Q Okay. But the policy of reporting medical 18 treatment and then being cleared through medical 19 compliance, that's the policy that's being discussed 20 in this paragraph, correct? 21 A Yes. 22 Q What internal criteria is that policy 23 established to comply with? 24 A Our internal policies are meant to enhance 25 the Federal Motor Carrier Regulations and that</p>	<p>84</p> <p>1 A Okay. 2 Q And then the sentence that we just 3 discussed says the reason for that -- the reason 4 that that protocol was established was partially to 5 comply with internal criteria of the medical 6 compliance department. So what I'm asking is what 7 internal criteria of the medical compliance 8 department was this protocol established to comply 9 with? 10 MR. HOWLETT: Objection, asked and 11 answered. 12 MS. GIBBS: He said he didn't understand 13 the question, though. 14 MR. HOWLETT: He had already given about 15 two answers on it. I think the question was 16 anything more, the one you -- 17 Q (BY MS. GIBBS) Go ahead. 18 A Well, I think we do have more stringent 19 requirements for our drivers than what's mandated by 20 just the basic requirements of the DOT regulations 21 and those are what we consider our internal policies 22 and criteria. A driver that may pass a medical 23 examination and receive a certification may not pass 24 our company's more stringent policies. 25 Q Okay. So I'm asking what those internal</p>



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<p>1 criteria are?</p> <p>2 A It's a case-by-case basis. We don't have</p> <p>3 anything specifically written down that our blood</p> <p>4 pressure requirements are higher than DOT</p> <p>5 regulations. Maybe in a situation where we would</p> <p>6 look at past injury histories, drug and alcohol use.</p> <p>7 There's nothing that allows -- that says that we</p> <p>8 can't look at additional areas of concern from</p> <p>9 safety that may be presented to us. So is there a</p> <p>10 specific criteria written down, a list? No.</p> <p>11 Q So you're saying that you have more</p> <p>12 stringent medical policies than is regulated by the</p> <p>13 DOT, correct?</p> <p>14 A That's correct.</p> <p>15 Q But you're saying that those policies are</p> <p>16 not written down anywhere?</p> <p>17 A No, those policies are something that if</p> <p>18 this issue comes up it's discussed with the driver</p> <p>19 and if there's an additional concern we may have our</p> <p>20 medical review officer offer his opinion.</p> <p>21 Q So you allow your medical compliance</p> <p>22 department to use their discretion as to when they</p> <p>23 are going to implement policies that are more</p> <p>24 stringent than what the DOT regulates?</p> <p>25 A From a compliance standpoint, yes.</p>	85	<p>1 probably in the near future is going to be part of</p> <p>2 the public policy and regulations of the DOT and it</p> <p>3 will probably be keyed off of body mass index, neck</p> <p>4 size. It's one of the hot topics coming up now with</p> <p>5 the Department of Transportation.</p> <p>6 A driver may come through our department</p> <p>7 and the medical examiner has put down no sleep</p> <p>8 disorder, checked that. The driver tells us he</p> <p>9 doesn't sleep, he knows he snores, he's always tired</p> <p>10 and he never feels rested. In that case, we may</p> <p>11 request additional documentation or testing before</p> <p>12 we allow him on the truck.</p> <p>13 Q Even though the doctor said that they</p> <p>14 didn't have it?</p> <p>15 A Correct.</p> <p>16 Q So even though the doctor said that they</p> <p>17 didn't have a sleep disorder, you think that there</p> <p>18 might be a sleep disorder?</p> <p>19 A If the driver admits to certain conditions</p> <p>20 or situations, we would request that. We could</p> <p>21 request that.</p> <p>22 Q But what I'm asking and I think it's sort</p> <p>23 of what you -- is that your -- you have the base</p> <p>24 level DOT regulations and you're allowed to have</p> <p>25 more stringent policies. Your medical compliance</p>	87
<p>1 Q What do you mean from a compliance</p> <p>2 standpoint?</p> <p>3 A Not from the medical, from the compliance,</p> <p>4 from the DOT compliance standpoint.</p> <p>5 Q Okay. I'm just sort of confused. What</p> <p>6 you're saying if I'm hearing this correctly is the</p> <p>7 DOT has sort of base --</p> <p>8 A Correct.</p> <p>9 Q -- regulations?</p> <p>10 And you're saying that you can employ more</p> <p>11 stringent policies, correct?</p> <p>12 A That's correct.</p> <p>13 Q Than what the DOT requires for compliance?</p> <p>14 A Correct.</p> <p>15 Q But these policies, these more stringent</p> <p>16 policies that you have are not written down</p> <p>17 anywhere?</p> <p>18 A They are probably -- we refer to the</p> <p>19 conference notes on some issues regarding the</p> <p>20 medical conditions that may be presented. We do not</p> <p>21 have a list that's just listed out as something that</p> <p>22 I could produce that said this is a, you know,</p> <p>23 condition that we're going to examine further.</p> <p>24 Q But you allow --</p> <p>25 A Well, as an example, sleep apnea is</p>	86	<p>1 uses their discretion as to when they're going to</p> <p>2 apply more stringent policy to a specific driver?</p> <p>3 A I believe that's the correct answer or</p> <p>4 statement.</p> <p>5 Q And these more stringent policies, just to</p> <p>6 clarify, you don't have these policies written down</p> <p>7 in any form?</p> <p>8 A They're on a case by case basis depending</p> <p>9 on what the condition is.</p> <p>10 Q Okay. Are there any other reasons for</p> <p>11 this protocol besides those that are listed here?</p> <p>12 A I believe those are the highlights, just</p> <p>13 driver welfare and public safety.</p> <p>14 Q And compliance with DOT?</p> <p>15 A And compliance, excuse me, and compliance</p> <p>16 with DOT.</p> <p>17 Q Does Janice Brown have any medical</p> <p>18 experience?</p> <p>19 A I believe that she has worked in some</p> <p>20 medical administrative capacities or medical</p> <p>21 clinics. I can't tell you specifically.</p> <p>22 Q Is she a doctor?</p> <p>23 A No.</p> <p>24 Q Is she a nurse?</p> <p>25 A No.</p>	88



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<p>89</p> <p>1 Q Does she have any other medical training?</p> <p>2 A Other than her on-the-job training and</p> <p>3 what she has developed over her position with P.A.M.</p> <p>4 Q Do you require your medical compliance --</p> <p>5 or your medical review clerks have any medical</p> <p>6 training?</p> <p>7 A We prefer it. It's not a requirement.</p> <p>8 Q What kind of medical training?</p> <p>9 A Anything that's medical terminology. In</p> <p>10 Melissa's case, her nursing background, but</p> <p>11 primarily their compliance concern is not medical.</p> <p>12 We have a medical review officer to make medical</p> <p>13 determinations.</p> <p>14 Q And whenever a medical determination is</p> <p>15 needed -- who is the medical review officer?</p> <p>16 A Craig Cooper.</p> <p>17 Q Is he a doctor?</p> <p>18 A Yes.</p> <p>19 Q And whenever a medical review decision is</p> <p>20 needed to be made, do you consult him?</p> <p>21 A If it's a questionable medical condition,</p> <p>22 we send the records to Dr. Cooper and he has worked</p> <p>23 in DOT compliance for several years.</p> <p>24 Q Okay. If it's a situation where you're</p> <p>25 applying a more stringent standard than the DOT</p>	<p>91</p> <p>1 to you --</p> <p>2 A Uh-huh. Excuse me.</p> <p>3 Q -- or to Janice Brown or to one of her</p> <p>4 staff, what would be done? What would happen next?</p> <p>5 A That would depend largely upon the reason</p> <p>6 for the report. Just last week we had a driver</p> <p>7 notify us that she found out she was approximately a</p> <p>8 month into her pregnancy.</p> <p>9 Q Okay.</p> <p>10 A And we requested that at the next office</p> <p>11 visit that the doctor address her ability to safely</p> <p>12 operate for her and the unborn child. We also asked</p> <p>13 that her doctor fill out -- review our job</p> <p>14 description as to whether or not she was currently</p> <p>15 capable of meeting our minimum physical</p> <p>16 requirements.</p> <p>17 Q Just because she reported that she was</p> <p>18 pregnant?</p> <p>19 A Yes. Well, excuse me, that would be</p> <p>20 because she is seeking medical treatment under the</p> <p>21 policy.</p> <p>22 Q You're saying -- why couldn't she just</p> <p>23 have what's normally in a doctor's note that she was</p> <p>24 not given any disqualifying prescription medications</p> <p>25 and that she was able to drive?</p>
<p>90</p> <p>1 standards, do you send the records to Dr. Cooper</p> <p>2 before applying a more stringent standard?</p> <p>3 A We could ask for his medical opinion even</p> <p>4 if the condition is not disqualifying, potentially</p> <p>5 how it could develop in his medical opinion.</p> <p>6 Q You say -- I'm sorry.</p> <p>7 A Excuse me, I mean, there is indications</p> <p>8 where we -- or situations where we would send him a</p> <p>9 medical report such as that.</p> <p>10 Q Okay. You could, but do you?</p> <p>11 A Not always.</p> <p>12 Q Not always. So sometimes the medical --</p> <p>13 A It's still discretionary. Excuse me.</p> <p>14 Q The medical, Janice Brown and her staff,</p> <p>15 make those decisions to apply a more stringent</p> <p>16 standard on their own?</p> <p>17 A In conjunction with Janice's management or</p> <p>18 supervision.</p> <p>19 Q Right, Janice Brown and her staff?</p> <p>20 A Correct, excuse me.</p> <p>21 Q Okay. What is P.A.M.'s policy regarding</p> <p>22 pregnant drivers?</p> <p>23 A Regarding pregnancy, I'm not sure there is</p> <p>24 a specific policy.</p> <p>25 Q If a driver reports that she is pregnant</p>	<p>92</p> <p>1 A Her doctor may not be familiar with our</p> <p>2 job requirements. It's classified as fairly heavy</p> <p>3 manual labor under OSHA and we want to make sure the</p> <p>4 doctor is aware of what actually is required of his</p> <p>5 patient before we return her.</p> <p>6 Q So your -- so of this specific pregnant</p> <p>7 driver, she reported that she was pregnant. Did you</p> <p>8 allow her to keep driving until her next doctor's</p> <p>9 appointment?</p> <p>10 A After the doctor returned our job</p> <p>11 description, yes.</p> <p>12 Q So until she visited a doctor and returned</p> <p>13 the job description, she's not allowed to drive?</p> <p>14 A I think in this case that she was actually</p> <p>15 on her time off.</p> <p>16 Q Okay. In the scenario where the driver</p> <p>17 was driving and she learned that she was pregnant,</p> <p>18 would you allow her to continue driving until she</p> <p>19 visited a doctor?</p> <p>20 A That would depend upon if she was</p> <p>21 indicating she had problems or how far in the future</p> <p>22 her office -- her doctor's visit was. You know, it</p> <p>23 could be a situation where she's done a self</p> <p>24 pregnancy test and just calls to tell us.</p> <p>25 Q Okay. So she does a self pregnancy test,</p>



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<p>1 she calls to tell you?</p> <p>2 A We would ask her to contact us upon her</p> <p>3 doctor's visit so we could get the information that</p> <p>4 we need.</p> <p>5 Q Would you allow her to continue driving</p> <p>6 until the doctor's visit?</p> <p>7 A If she felt safe in that case, she would</p> <p>8 probably be allowed to continue. We've had drivers</p> <p>9 into their third term continue to drive.</p> <p>10 Q And when she went to the doctor -- once</p> <p>11 she went to the doctor, in order for her to return</p> <p>12 to driving she would have to have a doctor sign off</p> <p>13 on your job description?</p> <p>14 A Yes.</p> <p>15 Q So she would be required to have more than</p> <p>16 just the standard doctor's note that is required</p> <p>17 when a driver visits a doctor, correct?</p> <p>18 A For a pregnant driver we would like to</p> <p>19 make sure that, you know, there's no risk to the</p> <p>20 pregnancy or her because of the physical</p> <p>21 requirements.</p> <p>22 Q Do you require this even if the driver</p> <p>23 feels that she's okay to drive and perform all the</p> <p>24 physical functions of being a truck driver?</p> <p>25 A I think pretty much we would request a job</p>	<p>93</p> <p>1 Longinotti on March 7, 2006 and it was addressed to</p> <p>2 the medical compliance department. Has this</p> <p>3 document changed at all since 2006?</p> <p>4 A I don't believe it has.</p> <p>5 Q At the top, the very top of the first page</p> <p>6 it says in quotation marks, it says, "This document</p> <p>7 is intended for self-analysis and correction action</p> <p>8 only." What does that mean?</p> <p>9 A Some attorney told me to put that years</p> <p>10 ago on any risk management document.</p> <p>11 Q What attorney told you that?</p> <p>12 A I can't remember who it was.</p> <p>13 Q Do you know what that means?</p> <p>14 A No.</p> <p>15 Q Do you know why you need to put that up</p> <p>16 there?</p> <p>17 A He told me to.</p> <p>18 Q Okay. I don't know why it's there. So</p> <p>19 you just put that little quote on the top of all</p> <p>20 your risk management documents?</p> <p>21 A Yes.</p> <p>22 Q Even though you don't know what it means</p> <p>23 or what it's for?</p> <p>24 A He was an attorney. I trusted him.</p> <p>25 Q That's a good logic. On the first page</p> <p>95</p>
<p>1 description be completed by her treating physician.</p> <p>2 Q Okay. To make sure there's no risk to the</p> <p>3 pregnancy or to the driver because of the physical</p> <p>4 requirements?</p> <p>5 A Correct.</p> <p>6 Q I am going to mark the next exhibit as</p> <p>7 <u>Exhibit 5</u>.</p> <p>8 (WHEREUPON, <u>Exhibit 5</u> was marked for</p> <p>9 identification.)</p> <p>10 MR. HOWLETT: Can we take like a two</p> <p>11 minute break since you're changing topics?</p> <p>12 MS. GIBBS: Sure. Well, I'm not really</p> <p>13 changing topics, but, yes.</p> <p>14 (Short break from 10:39 a.m. to 10:45</p> <p>15 a.m.)</p> <p>16 Q (BY MS. GIBBS) Just before we went on the</p> <p>17 break we had marked this exhibit as <u>Exhibit 5</u>. Do</p> <p>18 you recognize this document?</p> <p>19 A Yes.</p> <p>20 Q Did you write this document on March 7,</p> <p>21 2006?</p> <p>22 A Yes.</p> <p>23 Q And for the record, this is an internal</p> <p>24 risk management document, the review of job</p> <p>25 descriptions by a treating physician written by Tony</p> <p>94</p>	<p>1 under methodology, the first paragraph, "After</p> <p>2 reviewing the current DOT physical and the medical</p> <p>3 examiner -- and the medical compliance examiner has</p> <p>4 a legitimate concern regarding the ability of a</p> <p>5 person to safely perform the over-the-road</p> <p>6 commercial truck driver physical job specifications,</p> <p>7 the examiner may request that the driver's primary</p> <p>8 care physician review and sign the attached</p> <p>9 documents." Is that what that says?</p> <p>10 A Yes.</p> <p>11 Q Who is the medical compliance examiner?</p> <p>12 A That would be either Janice Brown or one</p> <p>13 of the other medical review persons.</p> <p>14 Q So after Janice Brown or somebody in</p> <p>15 medical review reviews the current DOT physical and</p> <p>16 they have a legitimate concern regarding the ability</p> <p>17 of a person to safely perform the over-the-road</p> <p>18 commercial truck driver physical job specifications,</p> <p>19 that person, meaning Janice Brown or somebody in</p> <p>20 medical review, can request the driver's primary</p> <p>21 care physician to review and sign the attached</p> <p>22 document?</p> <p>23 A Correct.</p> <p>24 Q What are the over-the-road commercial</p> <p>25 driver -- commercial truck driver physical job</p> <p>96</p>



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<p style="text-align: right;">141</p> <p>1 (WHEREUPON, Exhibit 13 was marked for 2 identification.) 3 A Thank you. 4 Q Do you recognize these documents? 5 A Yes. 6 Q What are these documents? 7 A I believe these are cell phone records. 8 Q Cell phone records of what? 9 A A number of calls taking place between 10 April 16th all the way through May 7th. 11 Q Okay. Calls from where to where? 12 A It looks like various called numbers, 13 various locations, and my recollection is these are 14 the cell phone records of Pat Smith and Eileen 15 Bennett -- excuse me, not cell phone, but calls 16 probably made from the terminal, outbound calls, 17 excuse me. 18 Q All right. These are calls made from the 19 terminal in Parsippany, New Jersey? 20 A I believe so, yes. 21 Q And I'm getting that because at the top it 22 says Parsippany. 23 A I should have read that first. 24 Q Okay. These were produced to the EEOC in 25 the defendant's response to the EEOC's first set of</p>	<p style="text-align: right;">143</p> <p>1 A I think -- my recollection is the sheet 2 that came in may have just had a highlight figure on 3 it, like a yellow marker drawn through it, and since 4 that doesn't copy well, I would have just written 5 the EB out to the side of it. 6 Q Okay. So based on your testimony, you are 7 saying based on the information that you received 8 that Eileen Bennett made that call -- Eileen Bennett 9 made that call? 10 A To the best of my knowledge, yes. 11 Q All right. And on the next page, are you 12 saying that Pat Smith made that call? 13 A Yes. 14 Q And on the next page you're saying that 15 Eileen Bennett made those two calls? 16 A Yes. 17 Q Okay. Is there anything on this document 18 that lets us know that Eileen Bennett or Pat Smith 19 made those calls? 20 A No. 21 Q So you're saying -- 22 A Other than my reference, no. 23 Q Okay. And you don't recall where you got 24 the information that you knew that Eileen Bennett or 25 Pat Smith made those calls?</p>
<p style="text-align: right;">142</p> <p>1 discovery. Did you assist in preparing these 2 documents for discovery? 3 A I probably attached them in the discovery 4 request, yes. 5 Q Okay. On the first page it says, EB is 6 written there and then on the next page it says Pat 7 Smith and then on the next page there is two EB's. 8 Did you write those in there? 9 A Yes. 10 Q That's your handwriting? 11 A Yes. 12 Q Okay. What does EB mean? 13 A Eileen Bennett. 14 Q Okay. And what does that mean? Why did 15 you write that in there? 16 A I think that is information that I 17 received that that was the call she had placed to 18 Anita Phillips. 19 Q Okay. 20 A Or I actually could -- I could have 21 transcribed this from an original copy that she sent 22 where she had indicated or highlighted this was a 23 phone call from her, that could have been. 24 Q You don't know how you determined that she 25 made that call?</p>	<p style="text-align: right;">144</p> <p>1 A Not offhand, I can't recall. 2 Q Okay. So based on this document on 3 4-30-07, which would be April 30, 2007, at 4 11:12 a.m. Eileen Bennett called the phone 5 number (313)633-7036, correct? 6 A It appears so. 7 Q Okay. Do you know whose phone number that 8 is? 9 A No. 10 Q Okay. And Eileen Bennett called that 11 phone number, they talked for eight minutes and 48 12 seconds; is that correct? 13 A That looks correct. 14 Q Okay. If you don't know whose phone 15 number that is, why did you indicate that Eileen 16 Bennett made that phone call on here? 17 A I said my recollection is that the 18 original records came in, had some indication from 19 Eileen that these were the phone calls placed. 20 Q Placed to whom? 21 A To Anita Phillips. 22 Q Okay. So based on however you got this 23 information, you're saying that Eileen Bennett made 24 this phone call to Ms. Phillips? 25 A Yes. My understanding is this was her</p>



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<p>145</p> <p>1 cell phone number that they were calling.</p> <p>2 Q Okay. So based on your knowledge, that</p> <p>3 phone number, (313)633-7036, is Ms. Phillips' cell</p> <p>4 phone number?</p> <p>5 A I believe so.</p> <p>6 Q Okay. And they talked for eight minutes</p> <p>7 and 48 seconds?</p> <p>8 A Somebody did.</p> <p>9 Q And the next page which is May 1, 2007 at</p> <p>10 12:05 p.m, you're stating that Pat Smith talked to</p> <p>11 Ms. Bennett -- or I'm sorry, scratch that. That Pat</p> <p>12 Smith talked to Ms. Phillips for nine minutes and 36</p> <p>13 seconds?</p> <p>14 A What is the day?</p> <p>15 Q 5-01-07.</p> <p>16 A My copy looks like 3.36. Is that --</p> <p>17 Q Okay. I am going to represent to you that</p> <p>18 that is actually a nine.</p> <p>19 A Okay.</p> <p>20 Q But I see -- the copy is bad.</p> <p>21 A I will believe you.</p> <p>22 Q They talked for some amount of time. And</p> <p>23 then if we go to the last page, you are indicating</p> <p>24 that on 5-1-07 at 6:11 p.m. Ms. Bennett called Ms.</p> <p>25 Phillips and they talked for four minutes and six</p>	<p>147</p> <p>1 documents in support of interrogatory 9D and 9E; is</p> <p>2 that correct?</p> <p>3 A I believe it states that, yes.</p> <p>4 Q And those are documents that support --</p> <p>5 identifying all employees in the medical review</p> <p>6 department with whom charging party spoke with</p> <p>7 between April 30, 2007 and May 2, 2007? D, and all</p> <p>8 dispatchers with whom charging party communicated</p> <p>9 between April 30, 2007 and May 2, 2007, correct?</p> <p>10 A Yes.</p> <p>11 Q If we look at document request number 18.</p> <p>12 A What was that again, please?</p> <p>13 Q 18, on page 14 of <u>Exhibit 1</u>.</p> <p>14 A Page 18?</p> <p>15 Q Uh-huh.</p> <p>16 MR. HOWLETT: No, page 14 you said.</p> <p>17 Q (BY MS. GIBBS) Page 14, number 18, I'm</p> <p>18 sorry. Number 18 asked for you to produce any and</p> <p>19 all documents showing communication between</p> <p>20 defendant and employee Ray Snapp between April 30,</p> <p>21 2007 through May 30, 2007, including but not limited</p> <p>22 to all communications between Snapp and dispatch.</p> <p>23 And what was provided was these phone records and</p> <p>24 what was marked as DTC245. How do these documents</p> <p>25 show communications between defendant and Ray Snapp?</p>
<p>146</p> <p>1 seconds?</p> <p>2 A Yes.</p> <p>3 Q And then again at 7:47 p.m. they talked</p> <p>4 for two minutes?</p> <p>5 A That appears correct.</p> <p>6 Q Okay. If we look at -- if we go back to</p> <p>7 those request to produce documents.</p> <p>8 A Which exhibit would that be?</p> <p>9 Q Exhibit 1. And these are marked</p> <p>10 DTC0000232 through 234, correct?</p> <p>11 A Yes.</p> <p>12 Q And so these were responsive to your</p> <p>13 request to produce documents seven? Page 11,</p> <p>14 request for documents.</p> <p>15 A Number seven?</p> <p>16 Q These were part of the -- responsive to</p> <p>17 that request to produce documents?</p> <p>18 A It appears so, yes.</p> <p>19 Q Okay. Number 17?</p> <p>20 A Okay.</p> <p>21 Q Number 18?</p> <p>22 A Okay.</p> <p>23 Q And number 19, correct?</p> <p>24 A Okay.</p> <p>25 Q And then number seven is actually</p>	<p>148</p> <p>1 Or where in these documents does it show</p> <p>2 communications between defendant and Ray Snapp?</p> <p>3 A It doesn't.</p> <p>4 Q It doesn't?</p> <p>5 A I don't see that it makes a direct</p> <p>6 reference between Anita Phillips and Ray Snapp.</p> <p>7 Q Okay. I wasn't asking for Anita Phillips</p> <p>8 and Ray Snapp. I was asking between defendant and</p> <p>9 Ray Snapp?</p> <p>10 A Oh, excuse me.</p> <p>11 Q So how do these documents show</p> <p>12 communication between -- where do these documents</p> <p>13 show communication between defendant and Ray Snapp?</p> <p>14 A I can't answer that.</p> <p>15 Q Why?</p> <p>16 A I don't see a reference to Ray Snapp in</p> <p>17 the documents.</p> <p>18 Q Okay. And why were these documents</p> <p>19 produced in response to that request to produce</p> <p>20 documents?</p> <p>21 A Those could have been produced by our</p> <p>22 operations department or Decker.</p> <p>23 Q Okay.</p> <p>24 A I don't know.</p> <p>25 Q It says the only person that assisted in</p>



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